

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

RANDY ETHAN HALPRIN,	§
	§
Petitioner,	§
v.	§ CAUSE NO. 3:19-cv-01203-L
	§
LORIE DAVIS, Director, Texas	§
Department of Criminal Justice,	§ CASE INVOLVING THE DEATH
Correctional Institutions Division,	§ PENALTY
	§
Respondent.	§

**PETITIONER'S NOTICE OF SCHEDULED EXECUTION AND
STATE COURT FILINGS**

TO THE HONORABLE SAM A. LINDSAY:

Petitioner Randy Ethan Halprin has submitted a second federal habeas petition which raises a single claim of anti-Semitic judicial bias in violation of the Fourteenth Amendment, and has asked this Court to issue a temporary stay of proceedings so that he can exhaust state court remedies. The State opposes Mr. Halprin's request for a stay and has moved to dismiss the petition.¹ Mr. Halprin now provides the Court with notice that the trial court granted the State's motion to set an execution date scheduled for *October 10, 2019*, and Mr. Halprin is filing an application for collateral relief in state court.

On June 5, 2019, the State filed a motion in the 283rd District Court, Dallas County seeking an order setting Mr. Halprin's execution for October 10, 2019. Ex. A (State's Motion

¹ Mr. Halprin also has pending a petition for writ of certiorari before the Supreme Court with respect to his initial federal habeas proceedings. *Halprin v. Davis*, No. 18-9676 (U.S.).

to Set Execution Date). Mr. Halprin immediately filed an opposition. Ex. B (Opposition to State’s Motion to Set Execution Date and Request for Hearing on the Matter). After correcting its repeated erroneous and negligent references in the motion to “Murphy” rather than “Halprin” (Patrick Murphy being one of Mr. Halprin’s co-defendants) and attempting to explain its false characterization of communications between the State and Mr. Halprin’s counsel, the State filed an amended motion on June 6, 2019. Ex. C (State’s Amended Motion to Set Execution Date). Mr. Halprin opposed the amended motion and requested a hearing. Ex. D (Opposition to State’s Amended Motion to Set Execution Date and Request for Hearing on the Matter).

On July 3, 2019, the 283rd District Court entered an order granting the State’s amended motion and setting Mr. Halprin’s execution for October 10, 2019. Ex. E (Order Setting Execution Date). In its Order, the court makes no reference to Mr. Halprin’s objections and “finds that no hearing is necessary.” *Id.* On July 8, the District Clerk of Dallas County signed a Warrant of Execution. Ex. F (Warrant of Execution).

Mr. Halprin previously advised this Court that his research showed the Texas Court of Criminal Appeals (“CCA”) would likely apply its abstention rule (the “two-forums” rule) and dismiss without prejudice an application filed while his petition for certiorari and second-in-time habeas petition were pending. That research indicates the CCA usually does not apply its two-forums rule after an execution date has been set. However, Mr. Halprin has not found a case in precisely the posture of this case.

Mr. Halprin’s interest is in the prompt and fair consideration of his meritorious judicial bias claim. Therefore, he is filing a subsequent application for habeas relief in state

court pursuant to Texas Code of Criminal Procedure article 11.071, § (5), on July 16, 2019.

Mr. Halprin will promptly advise this Court of developments in state court.

Mr. Halprin continues to pursue all avenues for relief in this Court including discovery with which he will supplement his state-court filing, if it is not dismissed, and, following discovery, a stay and abatement of these proceedings pending the state court's disposition of the subsequent application.

DATED: July 16, 2019

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of July, 2019, I electronically filed the foregoing Notice of Petitioner's Scheduled Execution and State Court Filings with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Jennifer Wren Morris
Assistant Attorney General
Office of the Attorney General of Texas
Austin, TX 78701

/s/ Timothy Gumkowski
TIMOTHY GUMKOWSKI